

NO. _____

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

In re Personal Restraint Petition of:

JOSE GASTEAZORO-PANIAGUA,

Petitioner.

**PERSONAL RESTRAINT PETITION
AND OPENING BRIEF**

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I. STATUS OF PETITIONER

Jose Gasteazoro-Paniagua, Petitioner, challenges his Clark County Superior Court conviction (Case No. 10-1-00004-6) for attempted murder and his resulting sentence. Mr. Gasteazoro-Paniagua (DOC # 752262) is currently incarcerated at the Washington State Penitentiary.

This is Mr. Gasteazoro-Paniagua's first collateral attack on his judgment.

II. STATEMENT OF THE CASE

Procedural History

The State charged Jose Gasteazoro-Paniagua with attempted murder by Information filed on January 4, 2010. The Information was amended on May 26, 2010, to charge attempted murder with a firearm and unlawful possession of a firearm.

Mr. Gateazoro-Paniagua was tried by a jury. On June 29, 2010, the jury returned verdicts of guilty. Mr. Gasteazoro-Paniagua was sentenced on August 11, 2010, to 429.75 months in prison. A notice of appeal was filed that same date.

This Court affirmed Mr. Gasteazoro-Paniagua's conviction in an opinion issued on February 20, 2013. Review by the Washington Supreme Court was denied on November 6, 2013. This Court issued its mandate on December 20, 2013. This PRP timely follows.

Evidence Presented at Mr. Gasteazoro-Paniagua's Trial

The Shooting of Jose Muro

On December 30, 2009, Jose Muro was working in the back storeroom at the Buy Low Market when a man wearing a dark hoody walked into the store, went into the back room, and shot Muro five times. RP 594, 621, 737. Muro survived.

The issue at trial was whether Jose Gasteazoro-Paniagua shot Muro.

The Unidentified Shooter

The video surveillance footage did not help answer the question because the shooter's face was obscured. RP 628, 729. Likewise, the people present at the shooting were unable to say who shot Muro. The store clerk, Saram Nhor, who knew Gasteazoro-Paniagua from previous meetings at the store, was unable to identify the shooter from a photo montage. RP 620, 621, 628-630. A bystander who was near the front door of the Buy Low Market when the shots were fired, Kendra Kessee, recognized Gasteazoro-Paniagua's photo in the montage, but could not identify him as the shooter. She claimed that the shooter was wearing all white and a white coat. RP 498-500. Muro, the victim, also testified he could not identify the shooter.

Gasteazoro-Paniagua denied shooting Muro. He testified that he was having dinner with his girlfriend at the time of the shooting. RP 1833.

When he learned of the shooting, he immediately called one of Muro's girlfriends, Laura Owings to express concern. RP 1833-1834.

The State Obtains Informant Testimony

After defendant was charged and arrested, the State obtained the testimony of an informant, Trent Jacobsen, who testified that Gasteazoro-Paniagua confessed to him. See RP 1423.¹ Mr. Jacobsen indicated he had known Mr. Gasteazoro-Paniagua, who he called "Neeka," for twelve years and that Neeka confessed to Jacobsen. RP 1411-1413.

Jacobsen was in jail for a homicide charge, as well as three first degree robbery charges. If convicted, Jacobsen could have served more than 60 years in prison. RP 1446-1449. In return for his testimony, the State dismissed the murder charge and Jacobsen was sentenced to just over 10 years for robbery. RP 1448.

The State Elicits Improper Vouching Testimony

On direct, the State asked Jacobsen if he was "in trouble." RP 1446. Then, the State established that Jacobsen had reached an agreement with the State to testify in return for leniency. *Id.* Jacobsen's agreement was to provide testimony in this case and against his co-defendants. The prosecutor then asked "your agreement is to do what?" Jacobsen

¹ Prior to trial, the defense sought to suppress Mr. Gasteazoro-Paniagua's custodial statement based on the argument that Gasteazoro-Paniagua invoked his right to remain silent. That argument was rejected at trial and on appeal.

answered: “To tell the truth there as well.” RP 1147. Later, the State asked Jacobsen if he “added facts or made up anything.” RP 1448. The prosecutor concluded redirect by asking if the cooperation agreement “allowed” Jacobsen “to say anything you want” and then what he was “supposed to do” in order to receive the reduction in charges. Jacobsen answered: “Tell the truth.” *Id.*

Defense Counsel’s Deficient Cross-Examination

Despite the centrality of Mr. Jacobsen’s testimony, defense counsel asked him very few questions. To make matters worse, defense counsel asked on open ended question that allowed Jacobsen to characterize Gasteazoro-Paniagua as a violent, dangerous man. Defense counsel asked:

Q: So you made a conscious effort after talking to him a little bit to try and dig information out of him that would be incriminating; is that correct?

A: Yes.

Q: You did that for the sole purpose of benefitting from it and dealing with law enforcement; correct?

A: No.

Q: What other purpose did you do it for?

A: Like I said, after talking to him and getting the gist that he was the one who did it, I really didn’t feel comfortable, you know, going away for even a day and having the potential of having him around my kids, because they were living with my brother at the time.

Q: So the reason you decided to do it was so that you could help put him behind bars?

A: No. To keep my family safe.

RP 1450.

Over the course of the next 17 pages, defense counsel asked Jacobsen basically to repeat his testimony against Gasteazoro-Paniagua.

RP 1450 – 1467. Inexplicably, defense counsel then permitted Jacobsen to repeat his harmful characterization of defendant:

Q: And part of the reason you are testifying against your fiend over here, Mr. Gaasteazoro, is because you're going to benefit from it; correct?

A: Yes.

Q: But the other part is 'cause you don't want him out on the street –

A: Yes.

Q: -- because you're afraid of him.

A: Because I'm worried about my kids and my family.

RP 1468.

The State's Efforts to Hide the Truth About Jacobsen

Neither the State nor defense counsel asked Mr. Jacobsen anything about the crimes he committed.

Jacobsen was charged by Information with murder and several counts of robbery. The "Certification of Probable Cause" filed in support contains no facts. Instead, the probable cause statement is simply an

agreement between him and the Clark County Prosecutor agreeing to “facts sufficient” to justify the charge of murder.

The State did not disclose the police reports detailing Mr. Jacobsen’s crimes to Gasteazoro-Paniagua’s attorney and defense counsel made no specific request for them. Post-conviction counsel obtained documents which detail the crimes that Jacobsen committed. Those documents are attached to this petition.

To briefly summarize: Jacobsen and several cohorts unlawfully entered a home, shot and killed one man, and threatened to kill the three other people present in order to steal money and/or drugs. Arlene Stokes and Charles Moore were in their bedroom working on a computer when Jacobsen and his three accomplices broke into the apartment armed with rifles and handguns. Charles Moore was shot by the man holding the rifle after Moore moved toward the intruder. Ms. Stokes fell back into the closet when she was ordered to go sit on the couch. When the men could not find what they were looking to steal, Ms. Stokes was told “this is your last chance,” and was then told: “Bitch, turn your face against the wall,” so she could not look at any of the stocking mask-disguised men.

Alan Klein was asleep on the couch in the apartment and awoke with a gun in his mouth. The intruders demanded to know where the drugs and money were hidden. Klein was held by the scruff of his neck and walked into a room by the men who demanded that he open a safe. At one point,

one of the men shoved a handgun in Klein's mouth with enough force to dislodge his dental plate. Klein was then robbed of his wallet.

While this was going on, Moore was face down on the floor bleeding profusely from the gunshot wound. When police arrived, Moore was dead.

Mr. Gasteazoro-Paniagua's jury did not hear any of these facts.

In addition, defense counsel failed to impeach Jacobsen with his prior felony convictions, which included Taking a Motor Vehicle, Bail Jumping, and a prior Second-Degree Assault.

Trial counsel explains in a declaration attached to this petition that the State failed to disclose the facts of the murder committed by Jacobsen, as well as his prior convictions. Counsel's declaration is supported by the fact that he sought to impeach Jacobsen, but only with a juvenile conviction.

Defense Counsel's Inexplicable Agreement to a Limitation on Closing

After defense counsel introduced Jacobsen's plea agreement (redacted to remove the requirement that he "tell the truth"), defense counsel agreed with the trial court that defense counsel "can't say he's a liar," in closing argument. RP 1481.

III. ARGUMENT

- A. THE STATE FAILED TO DISCLOSE EXCULPATORY EVIDENCE
- B. MR. GASTEAZORO-PANIAGUA WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE COUNSEL WHEN COUNSEL FAILED TO INVESTIGATE AND PRESENT CRITICAL IMPEACHMENT EVIDENCE.

Introduction

The crimes committed by Mr. Jacobsen were more serious, involved greater threatened and realized harm, and involved more victims than the crime that Gasteazoro-Paniagua allegedly committed. However, because the State did not disclose and defense counsel did not discover the underlying facts, Jacobsen was not confronted with the truth. Instead, Jacobsen was able to testify that although he was “in trouble” with the law, his motivation in testifying was to protect his own family from a very dangerous man. As a result of these failures, the jury was denied the ability to accurately assess Jacobsen’s bias, interest, and true motivation for testifying against Gasteazoro-Paniagua.

Did the Prosecutor Fail to Disclose Impeaching Evidence?

In every criminal trial, the State faces the well-established discovery obligation to turn over to the defense evidence in its possession or knowledge both favorable to the defendant and material to guilt or punishment. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *United States v. Bagley*, 473 U.S. 667, 674 (1985); *Pennsylvania v. Ritchie*, 480 U.S. 39, 57,

(1987); *In re Personal Restraint of Rice*, 118 Wash.2d 876, 828 P.2d 1086 (1992). Therefore, the State must disclose any favorable treatment accorded witnesses for their testimony and may not permit a false view of that treatment to go before the jury. *Napue v. Illinois*, 360 U.S. 264 (1959); *Giglio v. United States*, 405 U.S. 150 (1972).

Was Defense Counsel Ineffective?

The test for ineffectiveness is the now familiar two-prong test derived from *Strickland v. Washington*, 466 U.S. 668 (1984). Under *Strickland*'s first prong, a court must determine whether, in light of all the circumstances, the identified acts or omissions of counsel were outside the range of professionally competent assistance. *Strickland*, 466 U.S. at 690. *Strickland* emphasizes that a court's evaluation of an attorney's performance must be “highly deferential” so as to diminish “the distorting effects of hindsight.” *Id.* at 689. Thus, “a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.” *Id.* The Supreme Court has “declined to articulate specific guidelines for appropriate attorney conduct and instead [has] emphasized that ‘[t]he proper measure of attorney performance remains simply reasonableness under prevailing professional norms.’ ” *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (quoting *Strickland*, 466 U.S. at 687–88. Nonetheless, under *Strickland*, “counsel has a duty to make reasonable investigations or to make a reasonable

decision that makes particular investigations unnecessary.” *Strickland*, 466 U.S. at 691.

The State Did Not Disclose and Defense Counsel Failed to Discover Material Impeachment

Because the State did not disclose and defense counsel did not discover material impeachment, the jury was not provided with facts essential to the evaluation of Jacobsen’s credibility. Because Jacobsen was critical to the State’s case, Gasteazoro-Paniagua was harmed.

This case is similar to *Grant v. Lockett*, 709 F.3d 224 (3rd Cir. 2013). In *Grant*, the federal circuit court found counsel ineffective in murder case for failing to investigate and impeach the state’s key witness—the only one who identified the defendant as the shooter—with prior drug convictions and the fact that he was on parole at the time of his testimony. The court explained that a key prosecution witness's prior criminal history and resultant parole status clearly constitute important impeachment evidence. “As a result, it is beyond the range of professionally reasonable judgment to forego investigation of, and impeachment based upon, such evidence absent some apparent strategic reason that might explain or excuse counsel's failure. Counsel's failure to make reasonable efforts to learn that Moore was on parole when he testified as the Commonwealth's key witness easily satisfies the first prong of *Strickland*.” *Id.* at 234.

To show prejudice, *Strickland* requires a petitioner to show that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Strickland*, 466 U.S. at 694. This requires more than just a “conceivable” likelihood of a different result. *Harrington*, 131 S.Ct. at 792. However, a petitioner “need not show that counsel's deficient performance ‘more likely than not altered the outcome of the case’—rather he must show only ‘a probability sufficient to undermine confidence in the outcome.’ ” *Jacobs v. Horn*, 395 F.3d 92, 105 (3d Cir.2005) (quoting *Strickland*, 466 U.S. at 693–94. Moreover, “[t]he effect of counsel's inadequate performance must be evaluated in light of the totality of the evidence at trial: ‘a verdict or conclusion only weakly supported by the record is more likely to have been affected by errors than one with overwhelming record support.’ ” *Rolan v. Vaughn*, 445 F.3d 671, 682 (3d Cir.2006) (quoting *United States v. Gray*, 878 F.2d 702, 710–11 (3d Cir.1989) (quoting *Strickland*, 466 U.S. at 696)).

The Supreme Court's decision in *Davis v. Alaska*, 415 U.S. 308 (1974), is particularly instructive to the analysis of prejudice. In *Davis*, the Supreme Court held that the Confrontation Clause requires that a criminal defendant be permitted to impeach the credibility of a prosecution witness with that witness's probation status as a juvenile delinquent, even though

the state asserted a strong and valid interest in preserving the confidentiality of juvenile delinquency adjudications. *Id.* at 319.

The defense in *Davis* sought to cross-examine a prosecution witness about his parole status to show that the witness “*might* have been subject to undue pressure from the police and made his identifications under fear of *possible* probation revocation.” *Id.* at 311 (emphases added). Nothing in the Court's discussion or analysis in *Davis* suggests that there was any evidence that the witness actually had some kind of “deal” or understanding with the prosecutor or that prosecutors had actually coerced the witness to implicate the defendant in exchange for favorable treatment regarding the probation. There was no suggestion of any *quid pro quo*, and the Court's analysis regarding the importance of cross-examining the witness about his parole status did not turn on evidence of any *quid pro quo*. Moreover, unlike Moore, the witness in *Davis* had actually been cross-examined about possible bias resulting from considerations other than his parole status. Nevertheless, the Supreme Court held that it was significant that the defense was prevented from “expos[ing] to the jury” the witness's parole status, from which the jurors “could appropriately draw inferences relating to the reliability of the witness.” *Id.* at 318. *Davis* held that the inability to expose a witness's parole status to the jury results in a denial of “the right of effective cross examination, which ‘would be constitutional error of the first magnitude.’ ” *Id.* at 318.

This case is also similar to *Amado v. Gonzalez*, 758 F.3d 1119 (9th Cir. 2014), where the Court found that the suppressed evidence would have changed the picture of the informant-witness:

Lapan's cross-examination of Hardy did not address any of these points, for Lapan, without the suppressed impeachment evidence, lacked a good-faith basis to ask the appropriate questions. Lapan's cross-examination was short, focusing on Hardy's weak vision and his arguable inability to identify people running across his field of vision. The suppressed information would have added to the force of the cross-examination and defense counsel's closing argument. There is a reasonable probability that the suppressed information would have made a difference, causing the jury to view Hardy's implication of Amado with a great deal more suspicion.

Id. at 1139. The same is true in this case. This Court should grant the petition.

C. THE PROSECUTOR IMPROPERLY VOUCHERED FOR THE INFORMANT

D. DEFENSE COUNSEL'S FAILURE TO OBJECT WAS INEFFECTIVE

During direct, the State asked and the informant-witness answered that his plea agreement with the State required him to tell the truth. Defense counsel did not object. The State asked the same question and the informant-witness answered the same way on redirect. Once again, defense counsel failed to object.

Allowing the witness to answer that his agreement with the prosecutor requires him to tell the truth constitutes vouching and violates due process and the right to confrontation.

Improper vouching occurs (1) if the prosecutor expresses his or her personal belief as to the veracity of the witness or (2) if the prosecutor indicates that evidence not presented at trial supports the witness's testimony. *United States v. Brooks*, 508 F.3d 1205, 1209 (9th Cir.2007) (quoting *United States v. Hermanek*, 289 F.3d 1076, 1098 (9th Cir.2002)). Whether a witness has testified truthfully is entirely for the jury to determine. *Brooks*, 508 F.3d at 1210 (quoting *United States v. Ortiz*, 362 F.3d 1274, 1279 (9th Cir.2004)).

The Washington Supreme Court held that it is misconduct for the State to elicit during direct examination of a cooperating witness that the witness' s agreement with the State requires “truthful” testimony. *State v. Ish*, 170 Wash.2d 189, 190, 241 P.3d 389 (2010). The Court reasoned: A strong case can be made for excluding a plea agreement promise of truthfulness. The witness, who would otherwise seem untrustworthy, may appear to have been compelled by the prosecutor's threats and promises to come forward and be truthful. The suggestion is that the prosecutor is forcing the truth from his witness and the unspoken message is that the prosecutor knows what the truth is and is assuring its revelation...”

Evidence that a witness has promised to give “truthful” testimony in exchange for reduced charges may indicate to a jury that the prosecution has some independent means of ensuring that the witness complies with the terms of the agreement. While such evidence may help bolster the

credibility of the witness among some jurors, it is generally self-serving, irrelevant, and may amount to vouching, particularly if admitted during the State's case in chief. Prosecutorial remarks implying that the government is motivating the witness to testify truthfully are prosecutorial overkill. “We agree with the court's conclusion in [*State v. Green*], 119 Wash. App. 15, 79 P.3d 460 (2003),] that evidence that a witness has agreed to testify truthfully generally has little probative value and should not be admitted as part of the State's case in chief. Evidence is not admissible merely because it is contained in an agreement, and reference to irrelevant or prejudicial matters should be excluded or redacted.” *Ish*, 170 Wash.2d at 197-98 (quotations and most citations omitted).

When the prosecutor elicited on direct examination that Jacobsen’s agreement to testify “truthfully,” he committed misconduct in a manner virtually identical to what occurred in *Ish*. The only real question before the Court - as in *Ish* - is whether Gasteazoro-Paniagua was sufficiently prejudiced by the misconduct to merit a new trial. Given the centrality of Jacobsen’s testimony, confidence in the verdict is undermined by the State’s improper vouching.

However, the problem does not end there. Not only was the prosecutor allowed to vouch, defense counsel elicited damaging information and then unreasonably agreed to limit his ability to attack

Jacobsen's credibility in closing. *Ramos v. Lawler*, 615 F. Supp. 2d 347 (M.D. Pa. 2009).

Defense counsel pressed the witness—not once, but twice—with open ended questions about why Jacobsen was testifying against defendant. In response, the witness stated he feared for his own children's lives. This was a highly damaging portrayal of Gasteazoro-Paniagua as a highly dangerous individual. Given that the witness knew defendant, jurors were invited to use Jacobsen's characterization of defendant as dangerous as substantive proof that Gasteazoro-Paniagua committed the crime. But, defense counsel compounded that error by agreeing not to argue that Jacobsen lied—when that was his very theory of the case. As a result, defense counsel simultaneously invited inadmissible aggravating evidence while unreasonably agreeing to an un-necessary and unhelpful limitation on the right to defend.

This Court should reverse.

IV. CONCLUSION AND PRAYER FOR RELIEF

Through a combination of errors, Mr. Gasteazoro-Paniagua was denied the opportunity to attack the critical witness against him—the sole witness who provided direct testimony that he shot the victim. Mr. Gasteazoro-Paniagua was prejudiced as a result of these failures. Based on the above, this Court should either reverse and remand for an evidentiary hearing or, if the State does not contest Petitioner's evidence, a new trial.

DATED this 9th day of December, 2014.

/s/ Jeffrey E. Ellis

Jeffrey E. Ellis #17139

/s/ Renee Alsept

B. Renee Alsept # 20400

Attorneys for Petitioner

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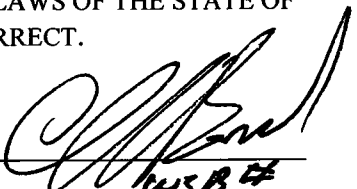
DECLARATION OF CHARLES BUCKLEY

I, Charles Buckley, declare as follows:

1. I am over 18 years of age and am competent to give this declaration.
2. I was appointed to represent Jose Gasteazoro-Paniagua by Clark County Indigent Defense and I was his attorney at trial.
3. The State did not provide me any of the discovery on the murder and robbery charges that their informant, Trent Jacobsen was charged with when he was housed in Clark County Jail.
4. I did not conduct an independent investigation into the facts of Mr. Jacobsen's crimes because I was so busy with Mr. Gasteazoro-Paniagua's case. This was complicated by the position taken by Mr. Jacobsen's attorney when I tried to ask questions about his case during our defense interview.
5. If I had known the specific facts of Mr. Jacobsen's crime, I would have definitely impeached him with those facts.
6. The Certification of Probable Cause on his case listed no facts.
7. I wanted to impeach Mr. Jacobsen with his prior crimes to show he was dishonest.
8. I was not informed that Mr. Jacobsen had been convicted of Taking a Motor Vehicle, Assault in the Second Degree and Bail Jumping.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Date and Place


Charles Buckley *WSB# 9048*

Vancouver Police Department						Case No 09-23361	
605 E. Evergreen Vancouver, WA 98661				(360) 487-7400 (360) 694-9646 (FAX)		Report ID 12/13/2009 23:51 1423	
Supplemental Incident Report						RCN	
Records Center						DOR 12/13/2009	
707 W 13TH Street Vancouver, WA 98660				(360) 397-2211 (360) 397-6074 (FAX)		Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>	
Distribution V DETECT						Distribution Other	
init	pDis	sDis	dEnt	M.C.	Concl	Case	F/U
Status						<input type="checkbox"/> IR <input type="checkbox"/> A <input type="checkbox"/> AR	
Administrative Information							
Location 5313 NE SAINT JAMES RD				City VANCOUVER		State Zip Code WA 98663	
Local Geo		State Geo		Precinct		Geo	
				V WEST		V14	
Rep Date 12/13/2009		Rep Time 22:50		From Date 12/13/2009		From Time 22:40	
				To Date 12/13/2009		To Time 22:50	
Category		Class		Premise			
				RE			
Dom Viol	DV Card	Child Abuse	Arson	Homicide	Gang	Weapons	Alcohol
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Offense Information							
Off # Offense 1 9A.32.030		Offense Category HOMICIDE		Offense Translation Murder I		Attempted or Completed C	
Location Type 1STORY							
Individual							
Role C	Seq 1	Type I	Last Name KLEIN		First Name ALAN		Middle Name S
Birthdate		Eth N					
Age Low 30	Age High 75	Hgt	Wgt	Hair	Eyes	Residence F	Employment/Occupation
Driver's License Number		Driver's License Issuer		Social Security No		State ID No.	
						FBI No	
Custody Status		Gang Affiliation		Tribe Affiliation		Identifiers	
Comments							
Type Phone No. H (360) 750-8747							
Article							
Item # 1	Loss/Action DAMAGED		IBR Type SINGL DWEL		NCIC Category	Type	Quantity
Drug Quantity		Drug Measure		Loss Value		Color	Color
Description DOOR							
Brand							
Model							
Serial No				Owner Applied No (CAN)			
Miscellaneous							
Rec Date		By PSN		Rec Agcy		Rec value	
Location				City		State Zip Code	
Reporting Officer Ruder, Brian						PSN 1423	
Approving Officer Treager, Scott						PSN 1163	
						Agency Case Number 09023361	
						Report ID 12/13/2009	
						Ref Case Number 23:51 1423	

Vancouver Police Department

Case No.
09-23361

Narrative

SUPPLEMENTAL REPORT:

ATTACHED DOCUMENTS:

None

SYNOPSIS:

I assisted with the investigation of a home invasion / homicide.

MENTIONED:

- Klien, Alan: Complainant

ACTIONS TAKEN:

On 12-13-09 at 2252 hours, I was dispatched to 5313 NE Saint James Rd for a report of a home invasion / homicide. Dispatch information relayed that a group of several individuals armed with pistols, rifles and shotguns had entered the house and threatened the occupants. Dispatch further advised that one of the occupants had been shot with a shotgun. I arrived on scene at around 2256 hours. I met with other Deputies and Officers to the north of the target address. I positioned myself in front of the house behind parked vehicles. I observed movement inside the house and was advised by dispatchers that the reporting party (Alan Klein) had advised that the suspects had left and that they had shot his friend. Dispatch further advised that the victims inside the residence were starting CPR.

I gathered the officers on scene and lead the group inside the house to secure the scene. The front door of the house was open and I was able to enter the house by shoving the door open. I met with a male and female victim in the house who advised that their friend (male laying on the floor face down) had been killed. I told the victims to leave the house with other officers on scene. The victims left the house and the remainder of the house was cleared. After clearing the house, I returned to the male who I had observed laying face down on the floor. I noticed that the male had not moved and there was a large pool of blood underneath the victim. I checked for signs of life (corroded artery pulse and signs of breathing). There was no pulse and no breathing. The body was turned over to responding AMR staff who had arrived on scene.

I then assisted with the clearing of the outbuildings on the property. One large building that adjoined the house was locked and the windows did not afford a clear view inside the storage area. I kicked in the door (causing damage to the door / frame) and then cleared the storage space. After the property had been completely secured, I took up a position on the perimeter at the intersection of NE St. Johns Rd and NE 54th St. I cleared the call after the perimeter had been disbanded.

This report is attached to the original.

EVIDENCE:

None

RECOMMENDED ACTIONS:

Attach to original report.

Reporting Officer Ruder, Brian	PSN 1423	Agency/Case Number VPD 09023361
Approving Officer reager, Scott	PSN 1163	
Report printed by: 0443		Report ID 12/13/2009 Ref Case Number 23:51 1423
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I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer

Ruder, Brian

PSN

1423

Approving Officer

reager, Scott

PSN

1163

Agency/Case Number	VPD
	09023361
Report ID	12/13/2009
Ref Case Number	23:51 1423

Report printed by: 0443

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Vancouver Police Department						Case No. 09-23361	
605 E. Evergreen Vancouver, WA 98661			(360) 487-7400 (360) 694-9646 (FAX)			Report ID 12/14/2009 00:47 1421	
Supplemental Incident Report						RCN	
Records Center						DOR 12/14/2009	
707 W 13TH Street Vancouver, WA 98660			(360) 397-2211 (360) 397-6074 (FAX)			Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>	
Distribution V DETECT						Distribution Other	
init	pDis	sDis	dEnt	M.C.	Concl	Case	F/U
Status						<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Administrative Information							
Location 5313 NE SAINT JAMES RD				City VANCOUVER		State Zip Code WA 98663	
Local Geo		State Geo		Precinct V WEST		Geo V14	
Rep Date 12/13/2009		Rep Time 22:50		From Date 12/13/2009		From Time 22:40	
To Date 12/13/2009		To Time 22:50		Category		Class	
Dom Viol <input type="checkbox"/>		DV Card <input type="checkbox"/>		Child Abuse <input type="checkbox"/>		Arson <input type="checkbox"/>	
Homicide <input type="checkbox"/>		Gang <input type="checkbox"/>		Weapons <input type="checkbox"/>		Alcohol <input type="checkbox"/>	
Drugs <input type="checkbox"/>		Computer <input type="checkbox"/>					
Offense Information							
Off # 1		Offense 9A.32.030		Offense Category HOMICIDE		Offense Translation Murder I	
						Attempted or Completed C	
Location Type 1STORY							
Individual							
Role V		Seq 1		Type I		Last Name STOKES	
First Name ARLENE		Middle Name M		Sex F		Race W	
Birthdate 10/22/1954		Eth					
Age Low 55		Age High		Hgt		Wgt	
Hair		Eyes		Residence F		Employment/Occupation	
Driver's License Number		Driver's License Issuer		Social Security No.		State ID No.	
FBI No.		PCN					
Custody Status		Gang Affiliation		Tribe Affiliation		Identifiers	
Comments							
Type H		Location 5313 NE SAINT JAMES RD				City VANCOUVER	
State WA		Zip Code 98663					
Narrative							

ATTACHED DOCUMENTS:

None

MENTIONED:

- Stokes, Arlene M: Witness

ACTION TAKEN:

On 12/14/09, at about 2250 hours, dispatch sent out a tone alert follow by information that an "armed robbery just occurred" at 5313 NE St James RD. Dispatch informed responding units that a victim had been shot during the robbery, which was described as a "home invasion".

Reporting Officer Keldsen, Doug		PSN 1421	Agency/Case Number VPD 09023361 Report ID 12/14/2009 00:47 1421 Ref Case Number
Approving Officer reager, Scott		PSN 1163	
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Vancouver Police Department

Case No.
09-23361

Narrative

When I arrived in the area, I assisted in clearing the eastside of the residence and then setup crime scene tape to cordon off the area. Sergeant Hatley asked that I assist Officer Telford who was with two of the victims.

I met with Officer Telford in the parking lot of the Walgreens, which was about one block to the south of the crime scene. Officer Telford was interviewing an adult male, who was later identified as Alan Klien. A woman, later identified as Arlene Stoke was seated in the back of Officer Telford's patrol vehicle.

When Officer Telford was done with his initial interview, I transported Alan back to the West Precinct for further interviews. Officer Telford transported Arlene back to the West Precinct.

When we got back to the station, I interview Arlene Stokes;

Arlene told me she had been in a dating relationship with victim, Charles Moore since August. She said she lived with Charles at the listed address.

Arlene said she was with Charles and they were working on the computer when an intruder entered their bedroom. Arlene described the intruder as a white male about 5'8" tall and very skinny with blue eyes. She said he was wearing a black stocking mask and was pointing a shotgun in their direction. Arlene described the shotgun as having a black barrel and a wooden stock.

Arlene said the intruder, "told us to sit back down on the bed". She said Charles went for the guy and pushed away the shotgun. As he pushed away the shotgun Charles stated, "You don't even have any bullets." Arlene described how the intruder pushed Charles back with the end of the shotgun. She said Charles yelled for Alan and went for the intruder again and that is when Charles was shot.

Arlene said she fell backward into the closet where she stayed. She said she was called out by the intruder who stated, "Come out here and stay on the couch and don't say a word." Arlene told me she was scared and did exactly what she was told. She told me she feared she would be shot.

Arlene said there were five to six others in the house and all were armed with guns. She said at least three others were black males and one was "heavy set". She described how they were "in and out, going threw the house looking for something." She recalled being asked several times by differed intruders, "Where is it?" Arlene told me she had no idea what they could possibly be looking for. When I asked her about drugs or a stash of money, Arlene replied, "Charles doesn't have any money and the only drugs he had are his weekly prescriptions.

Arlene told me one of the intruders, described as a stocky black male, got in her face and said, "This is your last chance." Arlene said she told the intruder, "I don't know what you want." She described him further as wearing a stocking over his had and having "puffy" eyes.

She said she was told, "Bitch turn your face against the wall". Arlene described how she turned sideways and covered her face with her hands. She asked the "white" intruder, "Are you going to hurt me?" She said he replied, "Just be quiet."

Arlene told me she saw a couple of the intruders bring Alan from the back and walk him, with a gun against his head, to his bedroom. Arlene described the handgun as having a slide action and being nickel plated. She said Alan was later escorted out of his room to the back of the house.

Arlene recalled hearing someone say, "Hommie, get the shell". She also heard a male voice from the back of the house state, "Let's roll."

Reporting Officer	PSN	Agency/Case Number VPD 09023361 Report ID 12/14/2009 00:47 1421 Ref Case Number
Keldsen, Doug	1421	
Approving Officer	PSN	
Creager, Scott	1163	
Report printed by: 0443		Page 2 of 3

Vancouver Police Department

Case No.
09-23361

Narrative

Arlene told me she there were times when she was alone in the living room and was thinking of running out the front door. She told me she felt she would be shot when they were done anyway and had nothing to lose.

When asked, Arlene told me they all left through the back of the house and she waited for a period of time before crawling to the kitchen to call 911 and report what happened.

RECOMMENDATION:

Attach this supplemental report to the original report and forward to Vancouver Detectives.

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer

Keldsen, Doug

PSN
1421

Approving Officer

reager, Scott

PSN
1163

Agency/Case Number
VPD
09023361
Report ID
12/14/2009
00:47 1421
Ref Case Number

Report printed by: 0443

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Vancouver Police Department									
605 E. Evergreen Vancouver, WA 98661 (360) 487-7400 (360) 694-9646 (FAX)					Case No. 09-23361 Report ID 12/14/2009 00:50 1268 RCN				
Supplemental Incident Report									
Records Center 707 W 13TH Street Vancouver, WA 98660 (360) 397-2211 (360) 397-6074 (FAX)									
V DETECT+ADMIN VPD Distribution <input type="checkbox"/> Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/> Distribution Other <input type="checkbox"/>									
Init <input type="checkbox"/> PDIs <input type="checkbox"/> SDis <input type="checkbox"/> M.C. <input type="checkbox"/> Concl <input type="checkbox"/> Case <input type="checkbox"/> F/U <input type="checkbox"/> Rat <input type="checkbox"/> Lett <input type="checkbox"/>									
Administrative Information									
Location 5313 NE SAINT JAMES RD Local Geo State Geo Precinct Geo City VANCOUVER State WA Zip Code 98663									
Rep Date 12/13/2009 Rep Time 22:50 From Date 12/13/2009 From Time 22:48 Dom Viol <input type="checkbox"/> DV Card <input type="checkbox"/> Child Abuse <input type="checkbox"/> Arson <input type="checkbox"/> Homicide <input checked="" type="checkbox"/> Gang <input type="checkbox"/> Weapons <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computer <input type="checkbox"/>									
Offense Information									
Off # 1 Offense 9A.32.030 Offense Category HOMICIDE Offense Translation Murder I Location Type 1STORY									
Individual									
Role I Last Name BEAMAN First Name JENNIFER Middle Name LYN Sex F Race B Birthdate 12/12/1979 U Age Low 30 Age High 502 Hgt 150 Wgt 150 BRO Eyes BRO Residence F Employment/Occupation									
Driver's License Number Social Security No. State ID No. FBI No. PCN Gang Affiliation Tribe Affiliation Identifiers									
Custody Status Owns residence, lives downstairs, rents upstairs Location 5317 NE SAINT JAMES RD #A City VANCOUVER State WA Zip Code 98663 Phone No. (360) 771-1540									
Individual									
Role D Last Name MOORE First Name CHARLES Middle Name NELSON Sex M Race W Birthdate 01/09/1963 N Age Low 46 Age High 601 Hgt 200 Wgt 200 BRO Eyes BLU Residence F Employment/Occupation									
Driver's License Number Social Security No. State ID No. FBI No. PCN Gang Affiliation Tribe Affiliation Identifiers									
Custody Status Comments Location 5313 NE SAINT JAMES RD City VANCOUVER State WA Zip Code 98663									
Narrative									
Reporting Officer Hatley, Kevin Approving Officer Reager, Scott PSN 1268 PSN 1163 Page 1 of 3									

Narrative**SUMMARY:**

This is a supplemental report. Original call was an armed robbery that had just occurred at 5313 NE Saint James Road. I spoke to a resident at 5317 NE Saint James Road, Jennifer L. Beaman, who said she had just arrived home within about 10-minutes of the incident but did not see or hear anything.

MENTIONED:

- **Beaman, Jennifer Lyn**: Involved or Mentioned
Comments: Owns residence, lives downstairs, rents upstairs
- **Moore, Charles Nelson**: Deceased

ACTION TAKEN:

On December 13, 2009, at about 2251 hours, while assigned as a uniformed patrol supervisor in West Precinct, Dispatch radioed emergency tones for an armed robbery that had just occurred at 5313 NE Saint James Road. I self-dispatched to the call at about 2253 hours and arrived at about 2257 hours. Several officers from VPD and deputies from CCSO responded.

The initial information on my mobile computer indicated:

- The reporting party told Dispatch that at about 2248 hours, a home invasion robbery occurred at the listed residence, 5313 NE Saint James Road.
- One 46-year old male had been shot once in the stomach, possibly with a shotgun, and was not breathing.
- There were 4-5 male suspects who were wearing dark clothes and masks.
- 2-3 of the suspects were believed to be black males.
- One of the suspects closed the garage door to the residence.
- It was unknown if the suspects had a vehicle.

Officer and deputies who were arriving were directed to meet and then approach from the north. When I arrived, several officers and deputies were approaching the residence and preparing to clear it. As I approached the residence, I heard an officer radio that the residence was clear and safe for medical personnel to enter.

I observed a white male and female standing outside the residence. The male was rubbing the back of his head. I heard him say he had been hit in the back of the head by a gun with which one of the suspects was armed. Because of the nature of the incident, and based on my training and experience, as well as another recent home invasion robbery I had responded to involving medical marijuana, I asked them if they had any medical marijuana or other drugs in the residence. They both answered simultaneously that they did not have any drugs in the house. The female then said she believed the suspects left out the west door closest to the garage (which was on the south end of the residence). The door she described was north of the garage, and between the garage and the front door on the northwest side.

I observed that the doorway she had described had an interior door as well as an exterior screen door. The interior door was open and the exterior screen door was closed.

At that point, they were escorted by an officer to a nearby location, away from the residence, so a K-9 track could be started and they could be separately interviewed. Two K-9 units searched the area but were unable to locate

Reporting Officer Hatley, Kevin	PSN 1268	Ref Case Number 00:50 1268	Report ID 12/14/2009	Agency/Case Number VPD 09023361
Approving Officer Creager, Scott	PSN 1163			

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Vancouver Police Department

Case No.
09-23361

Narrative

any suspects or leads indicating their direction of travel.

A CCSO Deputy exited the residence and advised, as medical units were arriving, that the victim male inside the residence appeared deceased.

I telephoned detectives to request their response to the residence and instructed Officer D. Keldsen to begin setting up crime scene tape for an inner and outer perimeter as other units set up a broad containment area. I then telephoned Dispatch and asked them to direct any media requests to an area outside the containment. I assigned Officer I. Botvinnik as the public information officer and directed him to respond to the designated location.

At about 2340 hours, I was approached by a female who identified herself verbally as Jennifer L. Beaman. She said she had just arrived home (5317 NE Saint James Road #A) about 45-minutes prior to law enforcement arriving at the scene. Jennifer said she owned the residence and resided there with her husband and 6-year old son in the downstairs of the house. She said they rented the upstairs to a tenant. Jennifer said she did not hear any sounds of disturbance or any vehicles speeding away during the time she had been home.

RECOMMENDATIONS:

1. Attach to the original report.
2. Forward to V DETECT for follow-up investigation.
3. Forward to ADMIN VPD for information.

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer

Hatley, Kevin

PSN
1268

Approving Officer

reager, Scott

PSN
1163

Agency/Case Number
VPD
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00:50 1268
Ref Case Number

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Vancouver Police Department

605 E. Evergreen
Vancouver, WA 98661

(360) 487-7400
(360) 694-9646 (FAX)

Case No.
09-23361

Report ID
12/14/2009 01:18 1127
RCN

Supplemental Incident Report

Records Center

707 W 13TH Street
Vancouver, WA 98660

(360) 397-2211
(360) 397-6074 (FAX)

DOR
12/14/2009

Officer Assaulted ☐ Non Disclosure ☐

Distribution
V DETECT

Distribution Other

int pDis sDis dEnt MC Concl Case F/U Ret Lett

Status

☐ ☐ IR ☐ A ☐ AR ☐

Administrative Information

Location
5313 NE SAINT JAMES RD City VANCOUVER State WA Zip Code 98663

Local Geo State Geo Precinct Geo
V WEST V14

Rep Date 12/13/2009 Rep Time 22:50 From Date 12/13/2009 From Time 22:50 To Date To Time Category Class Premise

Dom Viol ☐ DV Card ☐ Child Abuse ☐ Arson ☐ Homicide ☒ Gang ☐ Weapons ☐ Alcohol ☐ Drugs ☐ Computer ☐

Offense Information

Off # 1 Offense 9A.32.030 Offense Category HOMICIDE Offense Translation Murder I Attempted or Completed C

Location Type
1STORY

Individual

Role V Seq 2 Type I Last Name KLEIN First Name ALAN Middle Name SCOTT Sex M Race W

Birthdate 06/12/1962 Eth

Age Low 47 Age High Hgt 509 Wgt 195 Hair BRO Eyes BRO F Residence Employment/Occupation

Driver's License Number Driver's License Issuer Social Security No State ID No FBI No PCN

Custody Status Gang Affiliation Tribe Affiliation Identifiers

Comments

Type H Location 5313 NE SAINT JAMES RD City VANCOUVER State WA Zip Code 98663

Type H Phone No (360) 750-8747

Type C Phone No (360) 721-1908

Narrative

Summary

A home invasion robbery occurred at 5317 NE Saint James Rd., by what is believed to be four armed assailants. During the course of the robbery, Charles Moore was shot and killed. The suspects then fled the scene after taking a handgun from the residence

Persons mentioned

Moore, Charles Nelson 01/09/1963----- Deceased
Stokes, Arlene M. 10/22/1954-----Victim
Klein, Alan Scott 06/12/1962-----Victim

Reporting Officer
Telford, Scott
Approving Officer
reager, Scott

PSN
1127
PSN
1163

Agency/Case Number
VPD
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12/14/2009
01:18 1127
Ref Case Number

Narrative**Suspect information**

According to Klein, there were four male suspects involved. All four wore dark colored hoody type sweatshirts, and all four wore masks over their faces. According to Klein, the suspect that was dealing with him did most all of the talking. He had a deep voice and was armed with a compact silver colored semi-automatic handgun. Klein told me that it appeared larger than a 25 cal, but could be as large as a 9mm to a 45 cal.

Injured person

Klein was struck on the right side of his head with a handgun by suspect #1. He had a good sized bump on his head as well as a small laceration above his right ear. When offered, he refused medical, stating that he was all right.

Action taken

On December 13th 2009, at approximately 2250 hours, I heard west side units being dispatched to a home invasion robbery, with one victim being shot. I responded to the location.

When I arrived, I assisted a Clark County Deputy, making sure that the south side of the residence was secure. I was then asked by Sgt. B. Kipp to remove Stokes and Klein from the scene and to separate them in order to obtain statements from them. I transported both of them to the Walgreen's parking lot, approximately one block south and one block east of the target address. I then left Stokes in the back of my patrol vehicle, as I spoke with Klein outside. Klein provided me with the following initial statement:

Klein stated that he was at home; sound asleep on the couch, on his side of the residence that he shares with Moore. He said that he really sleeps hard, and it is difficult to wake him up. He said that the first thing he remembered was someone sticking something in his mouth and shaking his head. He initially thought that it was Moore just screwing around with him, so he pushed the object away from his face. As his head continued to be shaken, he woke up enough to see a masked intruder standing over him with a gun pointing at his face.

Klein continued, saying that the suspect demanded "Where's the dope? Where's the money?" Klein told the suspect that he did not have any dope, or any money. He said that a second suspect stood a ways off, and was armed with a long. He didn't know if it was a rifle or a shotgun. This second suspect didn't say much. He also told me that there were two other suspects that were moving from room to room, checking out the rest of the residence.

Klein said that when the suspect learned that there was a safe in the back room (Klein's bedroom), he grabbed me by the scruff of the neck and walked me back to my room, with the handgun pressed against the back of my head. When they got to the safe, the suspect demanded that he open it. Kline told me that the safe was not his, it was his landlord's. He said that he had the combination, but has never been able to figure out how to open it. He told the suspect this. He even gave the suspect the combination, which was written on the back of an envelope, telling him to try to open it himself.

Klein said that the suspect didn't even try to open the safe. He continued by saying "They took me back into the living room, still sticking that fucking gun in my face!" He said that the suspect sat him down on the couch and demanded his cell phone. The suspect then took his cell phone and smashed it on the ground. The suspect then again shoved the handgun into his mouth, enough to dislodge his dental plate a little bit. The suspect then told Klein to hand over his wallet, which he did.

Reporting Officer Telford, Scott	PSN 1127	Agency/Case Number VPD 09023361 Report ID 12/14/2009 01:18 1127 Ref Case Number
Approving Officer Creager, Scott	PSN 1163	
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Narrative

A couple of the other suspects kept looking out the back of the house and kept saying "We gotta go! We gotta go!" It was at about this point that the suspect removed the handgun from Klein's mouth. He then struck Klein with the gun, on the right side of his head just above his ear, causing a small laceration and a large bump. As the suspect struck Klein, he told him "That's for not knowing nothin!" The four suspects then fled out the front of the residence in an unknown direction.

It was at about this point that a medical unit arrived to check on Stokes, since she was having a real hard time coping with what had occurred. It was then determined that both Stokes and Klein were to be transported to West Precinct to be interviewed further. I transported Stokes, while Officer Keldsen transported Klein. Once back at the precinct, while waiting for the Detectives to arrive, I spoke with Klein a little further and had him clarify a few things. He told me the following:

He stated that there were four suspects, all between 509 and 600 tall. One of them was a little heavier set than the others. One of them did most of the talking and he had a deep voice. Klein did not recognize the voice, nor did he have any idea who the suspects were or why they chose his residence.

When I asked him who called 911, he said that Arlene did.

He stated that he did not hear a gun shot at any time. He believes that due to him sleeping so heavily, he did not hear it.

He said that when the suspect originally walked him back to his room, he did not see Moore on the floor. It wasn't until 911 was called that he observed him on the floor.

When asked if anyone had touched Moore's body at any time after being shot, he stated that at the direction of the 911 Dispatcher, he cleaned out Moore's breathing passages. He said that since Moore was lying face down, he just reached around and cleaned out his mouth and nose. He did not move the body in any manner.

Klein said that what he observed around the area of Moore's body was that there was a large amount of blood on the table, as well as a lot of blood pooling to the right side of his body.

Klein clarified that he believed that he only saw two guns with the suspects. Those being, one silver semi-automatic handgun and one long gun. He was not sure if it was a rifle or a shotgun.

I asked Klein if the suspects had taken anything from the residence. He told me that he had an antique 45 cal. revolver that he got from a friend of his. He said that when the suspects ransacked his residence, they found it and took it, along with some 45 cal. ammunition. But he also stated that the ammunition that they took was the wrong type for that weapon. He told me that he did not have the serial number for that gun, but that his friend may have it documented somewhere. He said that he would ask his friend if he knew what the serial number is.

Klein said that he has known Moore since they were about thirteen years of age. They went to school together. He stated that Moore has had a rough life and that he has spent time in prison. He said that he has lived with Moore for just over a year now, and that Stokes started shacking up with Moore about two months ago.

Klein said that does not do drugs, other than drink alcohol. He then stated that he does smoke pot occasionally, but that he does not sell it or deal it.

Klein said that as far as he knows, Moore did not use drugs, other than what was prescribed to him by a physician.

Reporting Officer	PSN	Agency/Case Number VPD 09023361
Telford, Scott	1127	
Approving Officer	PSN	Report ID 12/14/2009
Creager, Scott	1163	
Report printed by: 0443		Ref Case Number 01:18 1127

Narrative

Klein said that as far as he knows, both he and Moore have not been in any altercations recently with anyone that would lead to this kind of retaliation. He said that he has no idea why someone would target their residence for drugs and money.

Klein stated that when the suspects stole his wallet, they got away with about \$240.00 in cash, his social security card, his Washington State Driver's License, and an Umqua Bank credit card, from his old job. He told me that when he got laid off, they never asked for it back. He said that he believes that his company just cancelled the card when he was laid off.

Action recommended

Attach to the original report.

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer
Telford, Scott

PSN
1127

Approving Officer
Reager, Scott

PSN
1163

Agency/Case Number
VPD
09023361
Report ID
12/14/2009
01:18 1127
Ref Case Number

Vancouver Police Department						Case No. 09-23361	
605 E. Evergreen Vancouver, WA 98661			(360) 487-7400 (360) 694-9646 (FAX)			Report ID 12/14/2009 02:39 1140	
Supplemental Incident Report						RCN	
Records Center						DOR 12/14/2009	
707 W 13TH Street Vancouver, WA 98660			(360) 397-2211 (360) 397-6074 (FAX)			Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>	
Distribution V DETECT						Distribution Other	
init	pDis	sDis	dEnt	M.C.	Concl	Case	F/U
Status						<input type="checkbox"/> IR <input type="checkbox"/> A <input type="checkbox"/> AR <input type="checkbox"/>	
Administrative Information							
Location 5313 ST JAMES				City VANCOUVER		State Zip Code WA 98661	
Local Geo		State Geo		Precinct V WEST		Geo V14	
Rep Date 12/13/2009	Rep Time 22:50	From Date 12/13/2009	From Time 22:50	To Date	To Time	Category	Class
Dom Viol <input type="checkbox"/>	DV Card <input type="checkbox"/>	Child Abuse <input type="checkbox"/>	Arson <input type="checkbox"/>	Homicide <input checked="" type="checkbox"/>	Gang <input type="checkbox"/>	Weapons <input checked="" type="checkbox"/>	Premise
						Alcohol <input type="checkbox"/>	Drugs <input type="checkbox"/>
						Computer <input type="checkbox"/>	
Offense Information							
Off # 1	Offense 9A.32.030	Offense Category HOMICIDE	Offense Translation Murder I			Attempted or Completed C	
Location Type 1STORY							
Narrative							

ADDITIONAL INFORMATION:

This is a supplemental report to the original incident report completed by VPD Ofc. Hibbard. Attach a copy of this report to the case file.

SYNOPSIS:

I responded to the report of a robbery / assault at 5313 NE St. James Rd. in Vancouver. Upon arrival it was determined that one subject located inside this residence was deceased as a result of the assault. I supervised the securing of the crime scene, the notifications to applicable detective units, and the search of the area for possible suspects and/or evidence. Once detectives arrived on scene I cleared the area.

ACTION TAKEN:

On 12-13-2009 at approximately 2250 hrs I (Sgt. J. Pfister #1140) responded with other VPD and CCSO units to a reported home invasion robbery / shooting at 5313 NE St. James Rd. As I arrived on scene I heard over my police radio that officers had entered the above residence, had secured the interior, and had located an individual inside the residence with a possible gunshot wound. Moments later it was determined that the injured subject was in fact deceased.

Two subjects, an adult male and an adult female, had also been inside the residence at the time of the incident. They were moved from the area and subsequently transported to VPD West Precinct for further investigation.

Once the interior of the residence had been secured a perimeter was set up in an attempt to locate suspects / evidence related to this crime. The search for suspects and / or evidence was unsuccessful.

Reporting Officer Pfister, Jon	PSN 1140	Agency/Case Number VPD 09023361
Approving Officer Reager, Scott	PSN 1163	
Report printed by: 0443		Page 1 of 2

Narrative

Officers secured the crime scene with yellow evidence tape. A crime scene log, maintained by VPD Ofc. Hibbard, was started at this time to document entry / exit of the crime scene.

VPD detectives were notified of the nature of the call and advised that they would be responding to the scene. Detectives subsequently arrived on scene and took over the investigation. I provided VPD Sgt. Creager with a brief synopsis of the event and actions taken by officers to this point.

A canvass of the neighboring houses / occupants was conducted by VPD Ofc. Magarian. See supplemental report completed by VPD Ofc. Magarian for results of the canvass.

Once detectives were on scene and the perimeter of the scene was secured by VPD officers I cleared the area.

ACTION RECOMMENDED:

Attach to case file.

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer
Pfister, Jon

PSN
1140

Approving Officer
Creager, Scott

PSN
1163

Agency/Case Number
VPD 09023361
Report ID
12/14/2009
Ref Case Number
02:39 1140

Vancouver Police Department						Case No. 09-23361	
605 E. Evergreen Vancouver, WA 98661			(360) 487-7400 (360) 694-9646 (FAX)			Report ID 12/14/2009 04:40 1271	
Supplemental Incident Report						RCN	
Records Center						DOR 12/14/2009	
707 W 13TH Street Vancouver, WA 98660			(360) 397-2211 (360) 397-6074 (FAX)			Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>	
Distribution V DETECT						Distribution Other	
int	pDis	sDis	dEnt	M C	Concl	Case	F/U
Status						<input type="checkbox"/> <input type="checkbox"/> IR <input type="checkbox"/> A <input type="checkbox"/> AR <input type="checkbox"/>	
Administrative Information							
Location 5313 ST JAMES RD				City VANCOUVER		State Zip Code WA 98661	
Local Geo		State Geo		Precinct V WEST		Geo V14	
Rep Date 12/13/2009		Rep Time 22:50		From Date 12/13/2009		From Time 22:50	
To Date		To Time		Category		Class Premise	
Dom Viol <input type="checkbox"/>		DV Card <input type="checkbox"/>		Child Abuse <input type="checkbox"/>		Arson <input type="checkbox"/>	
Homicide <input checked="" type="checkbox"/>		Gang <input type="checkbox"/>		Weapons <input checked="" type="checkbox"/>		Alcohol <input type="checkbox"/>	
Drugs <input type="checkbox"/>		Computer <input type="checkbox"/>					
Offense Information							
Off # 1	Offense 9A.32.030	Offense Category HOMICIDE		Offense Translation Murder I		Attempted or Completed C	
Location Type 1STORY							
Narrative							

SUMMARY:

This report is a supplemental report outlining my involvement in this investigation. Attach to the original report.

ADDITIONAL INFORMATION:

On 12-13-09 at approximately 2250 hours, myself and other officers responded to a home invasion robbery that had just occurred. The call was updated that four to five subjects had entered the residence and had been armed, shooting one of the occupants of the residence. Myself and other officers approached the residence. Several officers entered the house and escorted out a male and female, later identified as Arlene Stokes and Alan Klein.

I immediately made contact with the two subjects and requested they stand near a van on the sidewalk. I asked them for a description of the subjects. Arlene was very upset and was crying. They said that there were four or five subjects and they all were armed with handguns and shotguns. They said that the males were all covered in dark clothing. I asked them where they went. They pointed to a door on the southwest side of the residence and stated the males ran out that door toward St. Johns Rd. I asked them if they knew where they went from there and they said no. I asked them if they had heard any vehicles and they said no. I confirmed with them that there was only one person inside of the residence, the one that had been shot and they said yes. They were then handed over to Officer Telford and removed from the scene. Refer to his report for additional details.

I remained on-scene assisting with perimeter security until detectives arrived. At approximately 0300 hours, Detective J. Ringo requested I assist in making arrangements for Arlene's daughter, Sheanna, to come and get her.


When I was unable to contact Sheanna by telephone, I drove Arlene to where Sheanna was staying at her boyfriend's residence at 2600 Minnehaha St. #K134. I spoke with Sheanna. After I told her briefly about what had happened, because Arlene said she was unable to tell her because she was so upset, I asked Sheanna if she knew of any problems that might be going on at that house. She said she did not. I confirmed with her that Arlene had just met Charles and she said yes. I asked her how long had Arlene resided at the residence and she

Reporting Officer Kipp, Barbara	PSN 1271	Agency/Case Number VPD 09023361 Report ID 12/14/2009 04:40 1271 Ref Case Number
Approving Officer Creager, Scott	PSN 1163	

VERIFICATION OF PETITION

I, Jose Gasteazoro-Paniagua, verify under penalty of perjury that the attached petition is true and correct and filed on my behalf.

11-20-14 WASH. ST. PENITENTIARY
Date and Place



Jose Gasteazoro-Paniagua

ALSEPT & ELLIS LAW OFFICE

December 09, 2014 - 1:55 PM

Transmittal Letter

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Court of Appeals Case Number:

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